

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DR. SUZAN RUSSELL,

Plaintiff,

-against-

NEW YORK UNIVERSITY, ROBERT SQUILLACE,
individually and in his capacity as Associate Dean for
Academic Affairs, Liberal Studies, JOSEPH M.
THOMETZ, individually, and EVE MELTZER,
individually,

Defendants.
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**DECLARATION OF
MERCEDES COLWIN, ESQ.,
IN SUPPORT OF NYU
DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

15-cv-2185 (GHW)

MERCEDES COLWIN, an attorney duly admitted to practice law before the Courts of the State of New York, and before the United States District Court for the Southern District of New York, hereby declares that the following statements are true under the penalties of perjury:

1. I am a Partner with Gordon & Rees LLP, attorneys for defendants New York University ("NYU") and Robert Squillace ("Squillace") (collectively, "NYU Defendants"), and am fully familiar with the facts stated herein. I respectfully submit this Declaration in support of NYU Defendants' Motion for Summary Judgment, dismissing Plaintiff's Amended Complaint with prejudice, pursuant to Rule 56 of the Federal Rules of Civil Procedure.

2. Attached as Exhibit 1 is a true and correct copy of the Declaration of Fred Schwarzbach, dated September 23, 2016.

3. Attached as Exhibit 2 is a true and correct copy of NYU'S Non-Discrimination and Anti-Harassment Policy.

4. Attached as Exhibit 3 is a true and correct copy of NYU Code of Ethical Conduct, Section VI.

5. Attached as Exhibit 4 is a true and correct copy of Plaintiff's Resume.

6. Attached as Exhibit 5 is a true and correct copy of Plaintiff's Deposition transcript taken on February 8, 2016.

7. Attached as Exhibit 6 is a true and correct copy of the Faculty of Arts & Science Employment Form.

8. Attached as Exhibit 7 is a true and correct copy of Fred Schwarzbach's Deposition transcript taken on April 18, 2016.

9. Attached as Exhibit 8 is a true and correct copy of Plaintiff's Termination Letter dated October 9, 2015.

10. Attached as Exhibit 9 is a true and correct copy of the Collective Bargaining Agreement in effect from September 1, 2010 through August 31, 2016.

11. Attached as Exhibit 10 is a true and correct copy of Robert Squillace's Deposition transcript taken on April 20, 2016.

12. Attached as Exhibit 11 is a true and correct copy of Joseph Thometz's Deposition transcript taken on April 15, 2016.

13. Attached as Exhibit 12 is a true and correct copy of Eve Meltzer's Deposition transcript taken on April 15, 2016.

14. Attached as Exhibit 13 is a true and correct copy of Joseph Thometz's NYU ID Request.

15. Attached as Exhibit 14 is a true and correct copy of Plaintiff's NYU ID Request.

16. Attached as Exhibit 15 is a true and correct copy of EEOC Charge, dated May 22, 2014.

17. Attached as Exhibit 16 is a true and correct copy of Plaintiff's Complaint filed on March 24, 2015.

18. Attached as Exhibit 17 is a true and correct copy of Plaintiff's Deposition transcript taken on February 9, 2016.

19. Attached as Exhibit 18 is a true and correct copy of Plaintiff's Deposition transcript taken on March 7, 2016.

20. Attached as Exhibit 19 is a true and correct copy of Plaintiff's email, dated October 10, 2012.

21. Attached as Exhibit 20 is a true and correct copy of an email exchange between Joseph Thometz and Jaffe, dated October 11, 2012.

22. Attached as Exhibit 21 is a true and correct copy of email communications between Shenefelt, Joseph Thometz, and Plaintiff, dated December 6 and 7, 2015.

23. Attached as Exhibit 22 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, Robert Squillace, and Diamond, dated December 7, 2012.

24. Attached as Exhibit 23 is a true and correct copy of an email from Dean Schwarzbach to Plaintiff, dated December 7, 2012.

25. Attached as Exhibit 24 is a true and correct copy of an email from White to Plaintiff, dated January 24, 2013.

26. Attached as Exhibit 25 is a true and correct copy of AARP membership confirmation dated June 20, 2013.

27. Attached as Exhibit 26 is a true and correct copy of an email from Healthy Aging from Everyday Health, dated July 27, 2013.

28. Attached as Exhibit 27 is a true and correct copy of a KETKNBC.com article.

29. Attached as Exhibit 28 is a true and correct copy of an email from Plaintiff to Assistant District Attorney Kathryn Werner dated September 20, 2013.

30. Attached as Exhibit 29 is a true and correct copy of an email from Justin Edwards to Plaintiff, dated September 23, 2013.

31. Attached as Exhibit 30 is a true and correct copy of an email from Swinsburg to Plaintiff, dated July 21, 2013.

32. Attached as Exhibit 31 is a true and correct copy of an email from Swinsburg to Plaintiff, dated July 21, 2013.

33. Attached as Exhibit 32 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, dated July 21, 2013.

34. Attached as Exhibit 33 is a true and correct copy of an email from Plaintiff to Squillace, dated July 21, 2013.

35. Attached as Exhibit 34 is a true and correct copy of Security Incident Response, dated July 22, 2013.

36. Attached as Exhibit 35 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, Squillace, and Lucy Appert, dated July 23, 2013.

37. Attached as Exhibit 36 is a true and correct copy of an email from Plaintiff to Det. Eric Ocasio, dated August 4, 2013.

38. Attached as Exhibit 37 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach and Squillace, dated July 23, 2013.

39. Attached as Exhibit 38 is a true and correct copy of an email from Dean Schwarzbach to Plaintiff, dated July 23, 2013.

40. Attached as Exhibit 39 is a true and correct copy of an email from Manta Customer Service to Plaintiff, dated July 25, 2013.

41. Attached as Exhibit 40 is a true and correct copy of an email exchange between Plaintiff and Manta.com Customer Service, dated July 23-24, 2013.

42. Attached as Exhibit 41 is a true and correct copy of an email from Dean Schwarzbach to Jules Martin, dated July 23, 2013.

43. Attached as Exhibit 42 is a true and correct copy of an email from Suzan Russell to Dean Schwarzbach, dated July 24, 2013.

44. Attached as Exhibit 43 is a true and correct copy of the Incident Information Slip.

45. Attached as Exhibit 44 is a true and correct copy of the Incident Report, dated July 24, 2013.

46. Attached as Exhibit 45 is a true and correct copy of Gay-Robbins Email to Plaintiff, dated July 24, 2013.

47. Attached as Exhibit 46 is a true and correct copy of the OEO Investigation Summary, dated February 25, 2014.

48. Attached as Exhibit 47 is a true and correct copy of an email from Plaintiff to Gay-Robbins, dated July 27, 2013

49. Attached as Exhibit 48 is a true and correct copy of an email exchange between Plaintiff and Rectenwald, dated July 28, 2013.

50. Attached as Exhibit 49 is a true and correct copy of email exchanges between Plaintiff, JP Borum and Gay-Robbins, dated July 29-August 1, 2013.

51. Attached as Exhibit 50 is a true and correct copy of an email exchange between Plaintiff and Thometz, dated July 29-30, 2013.

52. Attached as Exhibit 51 is a true and correct copy of an email from Plaintiff to Gay-Robbins, dated August 1, 2013 at 2:29AM.

53. Attached as Exhibit 52 is a true and correct copy of an email from Plaintiff to Gay-Robbins, dated August 1, 2013 at 1:20PM.

54. Attached as Exhibit 53 is a true and correct copy of emails from Plaintiff to Gay-Robbins, Dean Schwarzbach, and Det. Eric Ocasio, dated August 8, 2013

55. Attached as Exhibit 54 is a true and correct copy of an email from Dean Schwarzbach to the Liberal Studies faculty and staff, dated August 1, 2013.

56. Attached as Exhibit 55 is a true and correct copy of Craig Jolley's Deposition transcript taken on April 20, 2016.

57. Attached as Exhibit 56 is a true and correct copy of an email from Jolley to Plaintiff, dated August 6, 2013.

58. Attached as Exhibit 57 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, dated August 9, 2013.

59. Attached as Exhibit 58 is a true and correct copy of an email from Plaintiff to White, Dean Schwarzbach, Jolley, and Squillace, dated September 21, 2013.

60. Attached as Exhibit 59 is a true and correct copy of email from Plaintiff to Jolley and Khandakar, dated August 25, 2013.

61. Attached as Exhibit 60 is a true and correct copy of an email from Plaintiff to Jolley and Khandakar, dated September 6, 2013.

62. Attached as Exhibit 61 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach and Gay-Robbins, dated August 11, 2013.

63. Attached as Exhibit 62 is a true and correct copy of an email from Dean Schwarzbach to Gay-Robbins, dated August 19, 2013.

64. Attached as Exhibit 63 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, dated August 23, 2013.

65. Attached as Exhibit 64 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, Gay-Robbins, and Jolley, dated September 3, 2013.

66. Attached as Exhibit 65 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, Gay-Robbins, Det. Ocasio, and Jolley, dated September 7, 2013.

67. Attached as Exhibit 66 is a true and correct copy of an email exchange between Plaintiff and Gay-Robbins, dated September 11, 2013.

68. Attached as Exhibit 67 is a true and correct copy of an email from Khandakar to Plaintiff, dated September 9, 2013.

69. Attached as Exhibit 68 is a true and correct copy of Khandakar's Handwritten Notes, dated September 18, 2013.

70. Attached as Exhibit 69 is a true and correct copy of an email from Plaintiff to Jolley, dated September 18, 2013.

71. Attached as Exhibit 70 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, dated September 11, 2013.

72. Attached as Exhibit 71 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, dated September 16, 2013.

73. Attached as Exhibit 72 is a true and correct copy of an email from ADA Werner to Suzan Russell, dated September 18, 2013

74. Attached as Exhibit 73 is a true and correct copy of an email exchange between Plaintiff and Dean Schwarzbach, dated September 30, 2013.

75. Attached as Exhibit 74 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach and Jolley, dated October 6, 2013.

76. Attached as Exhibit 75 is a true and correct copy of a letter from Assistant District Attorney Karen Edelman-Reyes to Jessica R. Witmer, Esq. Re: F.O.I.L. Request, dated April 7, 2015.

77. Attached as Exhibit 76 is a true and correct copy of an email from Plaintiff to Jolley, dated October 7, 2013.

78. Attached as Exhibit 77 is a true and correct copy of an email from Plaintiff to Jolley, dated October 7, 2013.

79. Attached as Exhibit 78 is a true and correct copy of an email from Dean Schwarzbach to Sheila Gay-Robbins, dated October 7, 2013.

80. Attached as Exhibit 79 is a true and correct copy of an email from ADA Werner to Plaintiff, dated October 8, 2013.

81. Attached as Exhibit 80 is a true and correct copy of an email from Plaintiff to ADA Werner, Dean Schwarzbach, Gay-Robbins, Jolley, and Assistant District Attorney Katie Doran, dated October 14, 2013

82. Attached as Exhibit 81 is a true and correct copy of an email from Plaintiff to Jolley and Dean Schwarzbach, dated November 8, 2013.

83. Attached as Exhibit 82 is a true and correct copy of an email from Plaintiff to Jolley and Dean Schwarzbach, dated November 10, 2013.

84. Attached as Exhibit 83 is a true and correct copy of an email from Plaintiff to Jolley and Dean Schwarzbach, dated November 15, 2013.

85. Attached as Exhibit 84 is a true and correct copy of an email exchange between Jolley and Plaintiff, dated November 13-14, 2013.

86. Attached as Exhibit 85 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach and Jolley, dated November 19, 2013.

87. Attached as Exhibit 86 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach, Jolley, and Gay-Robbins, dated November 25, 2013.

88. Attached as Exhibit 87 is a true and correct copy of an email from Plaintiff to White, dated November 26, 2013.

89. Attached as Exhibit 88 is a true and correct copy of an email from Plaintiff to Smalls-Smith, dated April 11, 2013.

90. Attached as Exhibit 89 is a true and correct copy of the OEO Investigation Summary of Concerns Raised by Plaintiff regarding Smalls-Smith, dated November 4, 2013.

91. Attached as Exhibit 90 is a true and correct copy of an email from Squillace to Plaintiff, dated May 16, 2013.

92. Attached as Exhibit 91 is a true and correct copy of an email from Plaintiff to Smalls-Smith, dated May 16, 2013.

93. Attached as Exhibit 92 is a true and correct copy of an email from White to Plaintiff, dated August 19, 2013.

94. Attached as Exhibit 93 is a true and correct copy of a letter from White to Plaintiff, dated September 23, 2013.

95. Attached as Exhibit 94 is a true and correct copy of an email from Smalls-Smith to White, dated August 9, 2013.

96. Attached as Exhibit 95 is a true and correct copy of an email from White to Plaintiff, dated August 15, 2013.

97. Attached as Exhibit 96 is a true and correct copy of an email exchange between White and Plaintiff, dated September 13, 2013.

98. Attached as Exhibit 97 is a true and correct copy of an email from White to Plaintiff attaching Squillace's written warning letter, dated November 27, 2013.

99. Attached as Exhibit 98 is a true and correct copy of a Warning Letter from Robert Squillace to Plaintiff dated November 27, 2013.

100. Attached as Exhibit 99 is a true and correct copy of a letter from Rzonca to Thomas Carew, dated December 4, 2013.

101. Attached as Exhibit 100 is a true and correct copy of a letter from Associate Dean Lauren Holmes to Rzonca, dated February 3, 2014.

102. Attached as Exhibit 101 is a true and correct copy of an email from Plaintiff to Jolley dated November 27, 2013 at 6:46PM.

103. Attached as Exhibit 102 is a true and correct copy of an email from Plaintiff to Jolley, November 27, 2013 at 8:18PM.

104. Attached as Exhibit 103 is a true and correct copy of an email from Plaintiff to Jolley, November 27, 2013 at 8:55PM.

105. Attached as Exhibit 104 is a true and correct copy of an email from Plaintiff to Jolley, November 27, 2013 at 12:38PM.

106. Attached as Exhibit 105 is a true and correct copy of an email Plaintiff to Jolley, dated November 27, 2013, at 12:45PM.

107. Attached as Exhibit 106 is a true and correct copy of an email from Plaintiff to Jolley, dated November 27, 2013 at 1:23PM.

108. Attached as Exhibit 107 is a true and correct copy of an email from Plaintiff to Jolley, dated November 27, 2013 at 1:30PM.

109. Attached as Exhibit 108 is a true and correct copy of an email from Jolley to Plaintiff, dated December 3, 2013.

110. Attached as Exhibit 109 is a true and correct copy of an email from Plaintiff to Jolley, dated December 3, 2013.

111. Attached as Exhibit 110 is a true and correct copy of an email from Plaintiff to Jolley and Dean Schwarzbach, dated December 4, 2013.

112. Attached as Exhibit 111 is a true and correct copy of an email from Plaintiff to Joan Illuzzi-Orbon, dated December 6, 2013.

113. Attached as Exhibit 112 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach and Jolley, dated January 6, 2014.

114. Attached as Exhibit 113 is a true and correct copy of an email from Plaintiff to Jolley and Dean Schwarzbach, dated December 6, 2013.

115. Attached as Exhibit 114 is a true and correct copy of an email from Plaintiff to Joan Illuzzi-Orbon, dated December 6, 2013.

116. Attached as Exhibit 115 is a true and correct copy of an email from Plaintiff to Joan Illuzzi-Orbon, dated December 6, 2013.

117. Attached as Exhibit 116 is a true and correct copy of an email from Plaintiff to Jolley and Dean Schwarzbach.

118. Attached as Exhibit 117 is a true and correct copy of an email from Plaintiff to ADA Werner, dated December 16, 2013.

119. Attached as Exhibit 118 is a true and correct copy of an Email from Plaintiff to ADA Werner, ADA Illuzzi-Orbon, and Katie Doran, dated February 23, 2014.

120. Attached as Exhibit 119 is a true and correct copy of Plaintiff's Deposition transcript taken on February 18, 2016.

121. Attached as Exhibit 120 is a true and correct copy of an email from Plaintiff to Dean Schwarzbach and Jolley, dated December 17, 2013.

122. Attached as Exhibit 121 is a true and correct copy of an email exchange between Jolley and Plaintiff, dated December 18, 2013, SMR001221.

123. Attached as Exhibit 122 is a true and correct copy of an email from Jolley to Thometz, dated December 19, 2013.

124. Attached as Exhibit 123 is a true and correct copy of an email from Jolley to Meltzer, dated December 19, 2013.

125. Attached as Exhibit 124 is a true and correct copy of an email exchange between Plaintiff and Jolley, dated December 20, 2013.

126. Attached as Exhibit 125 is a true and correct copy of an email from Thometz to Jolley, dated December 24, 2013.

127. Attached as Exhibit 126 is a true and correct copy of an email from Thometz to Jolley, dated December 28, 2013.

128. Attached as Exhibit 127 is a true and correct copy of an email exchange between ADA Werner and Plaintiff, dated January 6, 2014.

129. Attached as Exhibit 128 is a true and correct copy of an email exchange between ADA Werner and Plaintiff dated January 7, 2014.

130. Attached as Exhibit 129 is a true and correct copy of an email from Plaintiff to Jolley, Dean Schwarzbach, Squillace, and Holmes, dated January 2-3, 2014.

131. Attached as Exhibit 130 is a true and correct copy of an email exchange between Plaintiff and Jolley, dated January 4, 7, 2014.

132. Attached as Exhibit 131 is a true and correct copy of an email from Jolley to Plaintiff, dated March 3, 2014.

133. Attached as Exhibit 132 is a true and correct copy of an email from Plaintiff to Jolley, dated March 5, 2014.

134. Attached as Exhibit 133 is a true and correct copy of an email from Plaintiff to Jolley, dated April 18, 2014.

135. Attached as Exhibit 134 is a true and correct copy of an email exchange between White and Plaintiff, dated January 10, 13, 2014.

136. Attached as Exhibit 135 is a true and correct copy of an email from Jolley to Plaintiff, dated February 10, 2014.

137. Attached as Exhibit 136 is a true and correct copy of an email exchange between Jolley and Plaintiff, dated February 10-11, 2014.

138. Attached as Exhibit 137 is a true and correct copy of an email from Plaintiff to Jolley, dated February 11, 2014.

139. Attached as Exhibit 138 is a true and correct copy of a letter to Thometz from Jolley, dated February 25, 2014.

140. Attached as Exhibit 139 is a true and correct copy of a letter to Meltzer from Jolley, dated February 25, 2014.

141. Attached as Exhibit 140 is a true and correct copy of a letter to Plaintiff from Jolley, dated February 25, 2014.

142. Attached as Exhibit 141 is a true and correct copy of an email from Plaintiff to Jolley, dated February 25, 2016.

143. Attached as Exhibit 142 is a true and correct copy of Plaintiff's Revised Response to Request for Admissions No. 37, dated January 7, 2016.

144. Attached as Exhibit 143 is a true and correct copy of emails from Diamond to Plaintiff, Pamela Booker, Saul Anton, Mitchell Jackson, Mary Helen Kolisnyk, Maria Antonini, Tommy Lee, and Ned Wilson, dated March 3, 2014.

145. Attached as Exhibit 144 is a true and correct copy of an email from Plaintiff to Diamond, dated March 3, 2014 at 1:30PM.

146. Attached as Exhibit 145 is a true and correct copy of an email from Plaintiff to Diamond, dated March 3, 2014 at 1:42PM.

147. Attached as Exhibit 146 is a true and correct copy of an email from Plaintiff to Diamond, dated March 3, 2014 at 3:16PM.

148. Attached as Exhibit 147 is a true and correct copy of an email from Diamond to Plaintiff, dated March 3, 2014.

149. Attached as Exhibit 148 is a true and correct copy of an email exchange between Plaintiff and Dean Schwarzbach dated June 15, 2015.

150. Attached as Exhibit 149 is a true and correct copy of Dr. Yan Li's medical note, dated March 17, 2014.

151. Attached as Exhibit 150 is a true and correct copy of an email from Mary Signor to Plaintiff, dated April 9, 2014.

152. Attached as Exhibit 151 is a true and correct copy of an email exchange between Plaintiff and Dean Schwarzbach, dated April 9, 2014.

153. Attached as Exhibit 152 is a true and correct copy of an email from Plaintiff to Signor, dated April 10, 2014.

154. Attached as Exhibit 153 is a true and correct copy of the Confidentiality Stipulation, dated August 18, 2015.

155. Attached as Exhibit 154 is a true and correct copy of Co-Defendant's Answers to Plaintiff's First Set of Interrogatories, dated September 18, 2015.

156. Attached as Exhibit 155 is a true and correct copy of a letter from Margaret Watson, Esq. to Eileen M. Burger, Esq., dated September 18, 2015.

157. Attached as Exhibit 156 is a true and correct copy of an email from Plaintiff to Bauman, dated October 5, 2015.

158. Attached as Exhibit 157 is a true and correct copy of an email from Plaintiff to Bauman, dated October 5, 2015.

159. Attached as Exhibit 158 is a true and correct copy of a letter from Mercedes Colwin, Esq. to Eileen Burger, Esq., dated October 7, 2015.

160. Attached as Exhibit 159 is a true and correct copy of an email from Plaintiff to Bauman, dated October 8, 2015.

161. Attached as Exhibit 160 is a true and correct copy of the Oral Argument Transcript, dated October 30, 2015.

162. Attached as Exhibit 161 is a true and correct copy of the Amended Complaint.

163. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: New York, New York
September 23, 2016

/s/ Mercedes Colwin
Mercedes Colwin, Esq.